

Customer No.: 31561  
Application No: 10/707,358  
Docket No.: 11417-US-PA

## REMARKS

### Present Status of the Application

This is a full and timely response to the outstanding non-final Office Action mailed on November 30, 2004. The Office Action has rejected claims 20-21 and 25 under 35 U.S.C. 102(e) as being anticipated by Fujiwara (US 2003/0052353). The Office Action has also rejected claim 26 under 35 U.S.C. 103(a) as being unpatentable over Fujiwara in view of Ligon (US 6,630,721).

Claims 20-21 and 25-26 remain pending of which claims 20-21 and 26 have been amended. It is believed that no new matter is added by way of these amendments made to the claims or otherwise to the application.

After carefully considering the remarks set forth in this Office Action and the cited references, Applicants respectfully submitted that the presently pending claims are already in condition for allowance. Reconsideration and withdrawal of the Examiner's rejection are requested.

### Discussion of Office Objections

Customer No.: 31561  
Application No: 10/707,353  
Docket No.: 11417-US-PA

*The Office Action objected to the title of the invention for not being descriptive.*

In response thereto, Applicants have amended the title of the invention according to the Examiner's suggestion. Withdrawal of the objection is respectfully requested.

*The Office Action objected claims 20-21 and 25-26 because of Informalities.*

The Applicants would like to thank the Examiner for pointing out the informalities. In response thereto, Applicants have amended the claims to more accurately describe the invention and to clarify the issues addressed by the Examiner. Reconsideration and withdrawal of the objections are courteously requested.

#### Discussion of Office Action Rejections

*The Office Action rejected claims 20-21 and 25 under 35 U.S.C. §102(e) as being anticipated by Fujiwara (Pub No. US 2003/0052353 A1).*

To properly anticipate Applicants' claimed invention under 35 U.S.C. § 102, each and every element of the claim in issue must be found, 'either expressly or inherently described, in a single prior art reference.' Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully assert that Fujiwara is legally deficient for the purpose of anticipating claim 20 for the reasons as set forth below.

The present invention teaches in claim 1, among other things, '.. a plurality of gate structures having a gate conductive layer, disposed on the substrate, wherein first portions of

Customer No.: 31561  
Application No: 10/707,358  
Docket No.: 11417-US-PA

the gate structures, disposed on the active region, further comprise a cap layer and a spacer, and second portions of the gate structures, disposed on the isolation region, do not comprise a cap layer and a spacer. ...'. On the other hand, Fujiwara teaches all gate structures, disposed on both of the active regions (the two middle ones in the MCFA section) and the isolation regions (the two side ones in the MCFA section) comprise a cap layer and a spacer.

For at least these reasons, Applicant respectfully asserts that Fujiwara fails to teach or suggest the present invention or to render claim 20 anticipated. Since claims 21 and 25 are dependent claims, which further define the invention recited in claim 20, Applicants respectfully assert that these claims also are in condition for allowance. Thus, reconsideration and withdrawal of this rejection are respectfully requested.

*The Office Action rejected claim 26 under 35 U.S.C. § 103(a) as being unpatentable over Fujiwara in view of Ligon (US 6,630,721).*

With regard to the 103 rejections of claim by Fujiwara in view of Ligon, Applicants respectfully submit that this claim defined over the prior art references for at least the reasons discussed above.

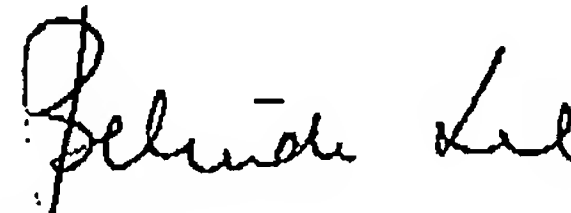
Customer No.: 31561  
Application No: 10/707,358  
Docket No.:11417-US-PA

### CONCLUSION

For at least the foregoing reasons, it is believed that the presently pending claims 20-21 and 25-26, are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

Respectfully submitted,

Date: *February 24, 2005*

  
Belinda Lee  
Registration No.: 46,863

Jianq Chyun Intellectual Property Office  
7<sup>th</sup> Floor-1, No. 100  
Roosevelt Road, Section 2  
Taipei, 100  
Taiwan  
Tel: 011-886-2-2369-2800  
Fax: 011-886-2-2369-7233  
Email: [belinda@jicgroup.com.tw](mailto:belinda@jicgroup.com.tw)  
[Usa@jicgroup.com.tw](mailto:Usa@jicgroup.com.tw)